



## U.S. Department of Justice

Office of the United States Trustee

District of Oregon

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### OPERATING GUIDELINES AND REPORTING REQUIREMENTS FOR CHAPTER 11 CASES

TO: Debtors, their Counsel, and Chapter 11 Trustees

The United States Trustee is required to supervise the administration of Chapter 11 cases pursuant to 28 USC § 586(a)(3). You must timely serve the United States Trustee with copies of all documents filed in the case, as delineated in the Federal Rules of Bankruptcy Procedure. All communications to or documents to be served upon the United States Trustee should be directed to the Office of the United States Trustee at the address and telephone number shown above.

In addition to the following requirements, all applicable provisions of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, Local Rules, General Orders and other Orders of the Court must be observed in each Chapter 11 case. Failure to comply with any requirement may result in a motion by the United States Trustee or another party to dismiss or convert your case or to request other relief.

Any request to amend or modify these guidelines and requirements must be submitted in writing to and approved in writing by the Office of the United States Trustee. The United States Trustee reserves the right to revise, modify, or amend these guidelines and requirements from time to time and, as it is appropriate, in an individual case.

#### 1. BOOKS AND RECORDS

The debtor's books and records must be closed as of the end of the day prior to the petition filing date. New books and records must be set up to reflect post-petition business activity. See Local Bankruptcy Rule 2015-2.E. It is essential that the balance sheet and income statement distinguish between pre-petition and post-petition activities. All pre-petition current liabilities should be reclassified as non-current liabilities on the post-petition balance sheet.

#### 2. BANK ACCOUNTS

Upon the filing of the petition, the debtor must immediately close each existing bank account and open a minimum of three new accounts. Pursuant to Local Bankruptcy

Rule 2015-2.F., the required accounts are general, payroll, and tax accounts. The checks for each account must bear the name of the debtor, the designation "Debtor in Possession," the bankruptcy case number, the type of account, and must be pre-numbered. The United States Trustee may require verification of the closing of the old and opening of the new bank accounts. All receipts must be deposited in the "Debtor in Possession" accounts, and all disbursements must be by checks drawn on such accounts. Depositories are to be instructed that account statements are to run for the period beginning on the first day and ending on the last day of each calendar month. Pursuant to Local Bankruptcy Rule 2015-2.F., accounts must be maintained in institutions approved by the United States Trustee. The list of currently authorized depositories is attached. The United States Trustee must be advised of any change in financial institutions.

### 3. MAINTENANCE AND PROOF OF INSURANCE

In order to protect the interests of creditors and the bankruptcy estate, the debtor is required to maintain the following insurance coverage, as appropriate: general comprehensive liability; fire and theft; workers' compensation; vehicle; product liability; fidelity bonds for employees; and any other coverage customary in the debtor's business. The dollar amount of the insurance coverage must be sufficient to cover the fair market value of the estate's property.

Within 20 days after the filing of the petition, the debtor shall provide the United States Trustee proof of insurance coverage. Such proof of coverage shall consist of certificates of insurance or other verified documents showing that each policy of insurance required for the estate is in full force and effect, and shall disclose the type and extent of coverage, effective dates, name of insurance carrier, and name, address and telephone number of agent. The debtor is responsible for including the address of the United States Trustee on the cancellation notice for each insurance policy. Upon expiration or other termination of any coverage, the debtor shall immediately provide the United States Trustee with proof of replacement coverage.

### 4. MEETING OF CREDITORS

Generally, within 20 to 40 days after the order for relief, a meeting of creditors will be held by the United States Trustee. If the United States Trustee designates a place for the meeting which is not regularly staffed by the United States Trustee, the meeting may be held not more than 60 days after the order for relief. The debtor or its representative, if the debtor is a corporation, partnership, or limited liability company, and the debtor's attorney are required to appear. In the case of a joint petition, both spouses must appear. The debtor or debtor's representative will be examined under oath by the United States Trustee, creditors, and other parties in interest in attendance.

5. NOTICING

The debtor is generally responsible for mailing all notices with the exception of the notice of the meeting of creditors conducted pursuant to 11 USC § 341(a). See Local Bankruptcy Rule 2002. Use of a mailing matrix provided by the Bankruptcy Court Clerk's Office is strongly recommended. If a mailing matrix is not used, the certificate of mailing pertaining to the notice must contain the names and addresses of the persons noticed. The debtor risks an ineffectual or improper notice if the parties on the court's mailing matrix are not properly noticed. Mailing expenses may normally be reimbursed as an administrative expense.

6. UNITED STATES TRUSTEE QUARTERLY FEES

In accordance with 28 USC § 1930(a)(6), debtors in possession are required to pay quarterly fees to the United States Trustee in all pending Chapter 11 cases. Federal Rule of Bankruptcy Procedure 2015(a)(5) requires Chapter 11 debtors to file with the court and serve on the United States Trustee a quarterly statement of disbursements made and quarterly fees paid to the United States Trustee. The statement is due on the last day of the month after the end of each calendar quarter (i.e. April 30, July 31, etc.).

The amount of the quarterly fee varies depending upon the monies disbursed from the estate during any calendar quarter (or fraction thereof). However, a minimum fee of \$250 is due each quarter even if no disbursements are made. The fee schedule is as follows:

<u>Disbursement Range</u>	<u>Amount</u>
Less than \$15,000. . . . .	\$ 250
\$15,000 - \$74,999.99 . . . . .	\$ 500
\$75,000 - \$149,999.99 . . . . .	\$ 750
\$150,000 - \$224,999.99 . . . . .	\$ 1,250
\$225,000 - \$299,999.99 . . . . .	\$ 1,500
\$300,000 - \$999,999.99 . . . . .	\$ 3,750
\$1,000,000 - \$1,999,999.99 . . . . .	\$ 5,000
\$2,000,000 - \$2,999,999.99 . . . . .	\$ 7,500
\$3,000,000 - \$4,999,999.99 . . . . .	\$ 8,000
\$5,000,000 and above. . . . .	\$10,000

Fee payments are due no later than one month following the end of each quarter. The fee owed is substantiated through the debtor's filing of monthly financial reports reflecting disbursements made by the debtor during a particular quarter. (See paragraph #8.) In order for a plan to be confirmed, all quarterly fees must be paid, or the plan must provide for payment of all fees on the effective date of the plan. 11 USC § 1129(a)(12).

Quarterly fees must be mailed with the proper transmittal form (mailed at the end of each quarter by the Executive Office for United States Trustees) to:

United States Trustee  
P.O. Box 198246  
Atlanta, GA 30384

If you do not have the proper form or do not timely receive a bill for quarterly fees from the Executive Office for the United States Trustees, contact the Office of United States Trustee immediately.

**Failure to pay the quarterly fee is cause for conversion or dismissal of your Chapter 11 case pursuant to 11 USC § 1112(b)(10).**

7. PRE-PETITION AND POST-PETITION DEBT

The debtor may not pay any pre-petition obligations unless authorized by the Bankruptcy Code or by Court order. The debtor must pay all obligations rising out of its operations after the filing of the petition in full when due.

8. MONTHLY FINANCIAL REPORTS

The debtor shall file original monthly financial reports, signed by the debtor or its authorized representative with the Clerk of the Bankruptcy Court and shall serve a copy on the United States Trustee and upon any committee appointed in the case. The monthly reports are to be on a calendar month basis and must be filed no later than the 15<sup>th</sup> day of the succeeding month. G.O. 03-1. Monthly financial reports shall be prepared using the forms designated by the United States Trustee. G.O. 03-1.

9. TAXES

All tax returns and reports for post-petition obligations shall be timely filed and accompanied by payment in full of any liability. Such taxes include, but are not limited to, federal and state payroll withholding taxes, FICA taxes, federal and state employment insurance, real/personal property taxes, and sales and use taxes. The debtor shall timely deposit sufficient funds in the debtor's tax account to pay any liability associated with the payroll. The debtor shall timely file reports for, but not pay, all pre-petition taxes.

10. USE, SALE, OR LEASE OF ESTATE PROPERTY

The debtor must provide notice and opportunity for hearing before using, selling, or leasing property of the estate, except in the ordinary course of business. The debtor may not use cash collateral, as defined by 11 USC § 363(a), without the consent of the secured creditor or approval by the Court. The debtor must provide notice of any hearings to the United States Trustee in the same manner as that provided to creditors or parties in interest. See Local Bankruptcy Rule 4001-1.D. and 1.E. for procedures relating to use of cash collateral.

11. OBTAINING CREDIT

The debtor must obtain Court approval before it may obtain secured credit or incur secured debt, or obtain unsecured credit other than in the ordinary course of business. The debtor must provide notice of any hearings to the United States Trustee in the same manner as that provided to creditors or parties in interest. See Local Bankruptcy Rule 4001-1.D. and 1.E. for procedures relating to approval of credit.

12. EMPLOYMENT AND COMPENSATION OF PROFESSIONALS

The employment of professionals, including but not limited to lawyers, accountants, appraisers or auctioneers, must be approved by the Court. Generally, professionals will not be compensated for services rendered prior to Court approval. No payments may be made to such professionals after the filing of the petition without Court authorization after notice to creditors and a hearing. A corporate debtor must be represented by an attorney; such debtor may not appear without one. See Local Bankruptcy Rule 9010-1.C.

13. CHANGE OF ADDRESS OR TELEPHONE NUMBER

The debtor must notify the United States Trustee and the Bankruptcy Court in writing of any change of address or telephone number. See Local Bankruptcy Rule 2002-1.F.1. for change of address procedures.

14. DISCLOSURE STATEMENT AND PLAN OF REORGANIZATION

The ultimate goal of most Chapter 11 cases is the implementation of a plan of reorganization which has been confirmed by the Court. The Oregon Bankruptcy Court utilizes a voluntary fast track Chapter 11 process in an effort to streamline uncomplicated Chapter 11 cases and make their administration faster and less expensive. The process involves a stipulated deadline for the submission of a disclosure statement and plan of reorganization, use of forms for the disclosure statement and plan, and combination of the final disclosure statement hearing with the plan confirmation hearing after conditional approval of the disclosure statement. Please

contact the United States Trustee attorney assigned to your case if you are interested in using the fast track procedures in your case.

Enclosed are two documents regarding information which should be included in Chapter 11 disclosure statements and plans of reorganization. The first document, prepared by the Bankruptcy Judges for the District of Oregon, describes common omissions in Chapter 11 disclosure statements and plans of reorganization. The second document, prepared by the United States Trustee, discusses information which the United States Trustee believes should appear in disclosure statements.

ILENE J. LASHINSKY  
UNITED STATES TRUSTEE

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Pamela J. Griffith  
Assistant United States Trustee

Enclosures: District of Oregon Authorized Depositories  
United States Trustee Monthly Financial Reports  
Common Omissions in Chapter 11 Disclosure Statements and  
Plans of Reorganization  
United States Trustee's guidelines on disclosure statements